

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 20

RIN 1018-AE93

**Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1998-99 Early Season**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** This rule prescribes special early season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

**DATES:** This rule takes effect on September 1, 1998.

**ADDRESSES:** The public may inspect comments received, if any, on the proposed special hunting regulations and tribal proposals during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The public should send communications regarding the documents to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, ms 634-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703-358-1714).

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 14, 1998, **Federal Register** (63 FR 43854), the Service proposed special migratory bird hunting regulations for the 1998-99 hunting

season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by non-tribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10-September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the March 20, 1998, **Federal Register** (63 FR 13748), the Service requested that tribes desiring special hunting regulations in the 1998-99 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) Methods that will be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) Steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. The Service has successfully used the guidelines since the 1985-86 hunting season. The Service finalized the guidelines beginning with the 1988-89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Late-season hunting will be addressed in late-September. As a general rule, early seasons begin

during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

**Status of Populations**

In the July 19, 1998, **Federal Register** (63 FR 38700), the Service reviewed the status for various populations for which early seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey and population status reports for blue-wing teal, Canada goose populations hunted in September seasons, sea ducks, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons.

At an August 6 public hearing on proposed late seasons, the Service presented a report on the status of waterfowl. This report is briefly summarized here.

Most goose and swan populations in North America remain numerically sound and the size of most fall flights will be similar to those of last year. Nine of the 28 populations of geese and swans we report on appear to have decreased since last year, 7 appear to have increased, 7 appear to have changed little, and no comparisons were possible for the remaining 5. Spring estimates of several Canada goose populations that nest near Hudson Bay declined this year; the declines may be at least partly an artifact of survey timing. Forecasts for production of young in 1998 varied regionally based largely on spring weather and habitat conditions. Generally, spring phenology was earlier than normal in northern Quebec and the Hudson Bay Lowlands, and this should lead to greater-than-average rate of production for geese nesting there. In the central and western Arctic, and along the west coast of Alaska, mostly average production is expected from nesting geese and swans. In the interior of Alaska, a mild spring with only minimal flooding should lead to better-than-average production. Habitat conditions for nesting geese deteriorated in much of south-central Canada since last spring, but they remained mostly favorable in eastern Canada and much of the contiguous U.S.

The 1998 estimate of total ducks in the traditional survey area was 39.1 million birds, an 8% decrease ( $P < 0.01$ ) from 1997 but still 20% higher ( $P < 0.01$ ) than the long-term average. The estimate for mallards (*Anas platyrhynchos*) was 9.6 million, a value similar ( $P = 0.49$ ) to that of last year.

Abundances of green-winged teal (*Anas crecca*), northern shovelers (*A. clypeata*), northern pintails (*A. acuta*), and scaup (*Aythya affinis* and *A. marila*, combined) decreased ( $P < 0.04$ ) from levels observed in 1997. Estimates for 7 of the 10 principal species were above ( $P \leq 0.04$ ) their respective long-term averages, but northern pintail and 2 scaup species (combined) remained below their averages ( $P < 0.01$ ). The number of ponds in May (4.6 million) was 38% lower ( $P < 0.01$ ) than last year, and 6% lower ( $P = 0.06$ ) than the long-term average. In eastern areas of Canada and the U.S., the number of total ducks was similar ( $P = 0.74$ ) to that of last year and to the 1995–97 average ( $P = 0.85$ ). Habitats in the eastern area were somewhat drier than last year, but conditions remained favorable for waterfowl production. The preliminary estimate of the total-duck fall-flight index is 84 million birds, compared to 92 million last year. The fall flight is predicted to include 11.7 million mallards, 18% lower ( $P < 0.01$ ) than the estimate of 14.4 million in 1997.

As a result of this status, the Service has responded by proposing Flyway frameworks that are the same as those of last season for the 1998–99 waterfowl hunting season (August 25, 1998, **Federal Register**, 63 FR 43350). The tribal seasons established below are commensurate with the population status.

#### Comments and Issues Concerning Tribal Proposals

For the 1998–99 migratory bird hunting season, the Service proposed regulations for 19 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 12 tribes have proposals with early seasons. Comments and revised proposals received to date are addressed in the following section. The comment period for the proposed rule, published on August 14, 1998, closed on August 24, 1998. Because of the necessary brief comment period, the Service will respond to any comments received on the proposed rule and/or these early-season regulations not responded to herein in the September late-season final rule.

The Service received two comments regarding the notice of intent published on March 20, 1998, which announced rulemaking on regulations for migratory

bird hunting by American Indian tribal members.

The South Dakota Department of Game, Fish, and Parks (South Dakota) commented on the proposal by the Lower Brule Sioux Tribes. South Dakota questioned whether a tundra swan permit would be required or whether all licensed waterfowl hunters would be allowed to take a swan during the Tribes' proposed tundra swan season. They further questioned whether hunters would be queried after the season to determine the harvest, age ratio, date and location of kill, and unretrieved kill. South Dakota also believed that any special youth season on tribal land should conform to the same framework allowed for the State's youth hunting season.

The Wisconsin Department of Natural Resources (Wisconsin) commented on the Great Lakes Indian Fish and Wildlife Commission's (GLIFWC) proposal. Wisconsin suggested monitoring the impact of the daily bag limit on giant Canada goose restoration efforts and that the Service and GLIFWC initiate and complete studies to show that current GLIFWC duck regulations have no negative impact on local populations before expanding hunting opportunities during time periods when local birds are most vulnerable. Wisconsin also requested that tribal members honor the noon opening for shooting hours for the first day of the State's duck season and comply with the State's open water hunting restrictions.

**Service Response:** Regarding South Dakota's comments on the Lower Brule Sioux Tribe's proposals, Federal frameworks for tundra swan hunting in South Dakota do not allow tundra swan seasons west of the Missouri River because of concerns for the potential harvest of trumpeter swans. Thus, the Service did not approve the Tribe's requested tundra swan season. Additionally, final Federal early-season frameworks published in the August 28, 1998, **Federal Register**, provided for a 1-day special youth waterfowl hunt. Any special youth waterfowl hunt for non-tribal members should conform to the final Federal frameworks.

Regarding Wisconsin's comments, the Service can find no evidence that the tribes' harvest of giant Canada geese has negatively impacted giant Canada goose populations in Wisconsin. In fact, as the GLIFWC point out in their July 14, 1998, response, tribal harvest has never exceeded 365 geese since off-reservation hunting resumed in 1985 and has averaged less than 200 birds annually. Additionally, tribal goose harvest per trip has averaged 0.2 geese per trip since 1990 when daily bag limits were

significantly less than the currently allowed 10 geese per day. While the Service believes that the current population status of giant Canada geese can easily support the tribes' limited harvest, it is incumbent upon the GLIFWC to continue to closely monitor both duck and goose harvest to ensure that local and/or regional breeding populations are not negatively impacted by harvest. Furthermore, as in the past, the Service again requests that tribal members honor both the noon opening for shooting hours for the first day of the State's duck season and Wisconsin's open water hunting restrictions.

#### NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES-75-74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88-14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**. In addition, an August 1985 Environmental Assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

#### Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat \* \* \*". Consequently, consultations were conducted to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened

species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES**.

#### **Regulatory Flexibility Act**

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to update the 1996 Small Entity Flexibility Analysis (Analysis) documenting the significant beneficial economic effect on a substantial number of small entities. The 1996 Analysis estimated that migratory bird hunters would spend between \$254 and \$592 million at small businesses. The Service has updated the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey. Nationwide, the Service now estimates that migratory bird hunters will spend between \$429 and \$1,084 million at small businesses in 1998. Copies of the 1998 Analysis are available upon request from the Office of Migratory Bird Management.

#### **Executive Order (E.O.) 12866**

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and have been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under E.O. 12866.

#### **Congressional Review**

In accordance with Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 8), this rule has been submitted to Congress and has been declared major. Because this rule establishes hunting seasons, it qualifies for an exemption under 5 U.S.C. 808(1); therefore, the Department determines that this rule shall take effect immediately.

#### **Paperwork Reduction Act**

The Service examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting

requirements imposed under hunting regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, the information collection requirements of the Migratory Bird Harvest Information Program have been approved by OMB and assigned clearance number 1018-0015 (expires 08/31/1998). The renewal clearance packet was submitted to OMB July 22, 1998. This information is used to provide a sampling frame for voluntary national surveys to improve Service harvest estimates for all migratory game birds in order to better manage these populations. The information collection requirements of the Sandhill Crane Harvest Questionnaire have been approved by OMB and assigned clearance number 1018-0023 (expires 09/30/2000). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. The Service may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### **Unfunded Mandates Reform Act**

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this proposed rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

#### **Civil Justice Reform—Executive Order 12988**

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Takings Implication Assessment**

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

#### **Federalism Effects**

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Government-to-Government Relationship With Tribes**

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the March 20 request for proposals and the August 14 proposed rule, we have consulted with all the tribes affected by this rule.

#### **Regulations Promulgation**

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, the Service established what it believed were the longest periods possible for

public comment. In doing this, the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), prescribes final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

#### List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

#### PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

1. **Authority:** 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

(**Note:** The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature).

2. Section 20.110 is revised to read as follows:

#### **§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.**

(a) *Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Non-tribal Hunters)*

##### Doves

*Season Dates:* Open September 1, close September 15, 1998; then open November 21, close January 4, 1999.

*Daily Bag and Possession Limits:* For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late

season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

*General Conditions:* A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) *Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-tribal Hunters)*

##### Sandhill Cranes

*Season Dates:* Open September 19, close October 25, 1998.

*Daily Bag Limit:* 3 sandhill cranes.

*Permits:* Each person participating in the sandhill crane season must have a valid Federal sandhill crane hunting permit in their possession while hunting.

*General Conditions:* The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and non-tribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(c) *Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)*

##### Ducks

##### Minnesota 1854 Zone

*Season Dates:* Open September 12, close November 29, 1998.

*Daily Bag Limit:* 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks; 4 redheads, 4 pintails and 2 canvasbacks.

##### Mergansers

##### Minnesota 1854 Zone

*Season Dates:* Open September 12, close November 29, 1998.

*Daily Bag Limit:* 5 mergansers, including no more than 1 hooded merganser.

##### Geese

##### Minnesota 1854 Zone

*Season Dates:* Open September 1, close November 29, 1998.

*Daily Bag Limit:* 10 geese.

##### Coots and Common Moorhens (Gallinule)

##### Minnesota 1854 Zone

*Season Dates:* Open September 12, close November 29, 1998.

*Daily Bag Limit:* 20 coots and common moorhens, singly or in the aggregate.

##### Sora and Virginia Rails

##### Minnesota 1854 Zone:

*Season Dates:* Open September 1, close November 29, 1998.

*Daily Bag Limit:* 25 sora and Virginia rails, singly or in the aggregate. The possession limit is 25.

##### Common Snipe

##### Minnesota 1854 Zone

*Season Dates:* Open September 1, close November 29, 1998.

*Daily Bag Limit:* 8 snipe.

##### Woodcock

##### Minnesota 1854 Zone

*Season Dates:* Open September 12, close November 29, 1998.

*Daily Bag Limit:* 5 woodcock.

#### General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in

the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

*(d) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)*

**Ducks**

**Michigan, 1836 Treaty Zone**

*Season Dates:* Open September 20, 1998, close January 20, 1999.

*Daily Bag Limit:* 10 ducks, which may include no more than 1 pintail, 1 canvasback, 2 black ducks, 1 hooded merganser, 2 wood ducks, 2 redheads, and 5 mallards (only 2 of which may be hens).

**Canada Geese**

**Michigan, 1836 Treaty Zone**

*Season Dates:* Open September 1, close November 30, 1998, and open January 1, 1999, close February 8, 1999.

*Daily Bag Limit:* 5 geese.

**Sora Rails**

**Michigan 1836 Treaty Zone**

*Season Dates:* Open September 1, close November 14, 1998.

*Daily Bag Limit:* 5 rails.

**Common Snipe**

**Michigan 1836 Treaty Zone**

*Season Dates:* Open September 1, close November 14, 1998.

*Daily Bag Limit:* 5 snipe.

**Woodcock**

**Michigan 1836 Treaty Zone**

*Season Dates:* Open September 1, close November 14, 1998.

*Daily Bag Limit:* 5 woodcock.

*General Conditions:* A valid Grand Traverse Band Tribal license is required for all persons 12 years and older and must be in possession before taking any wildlife. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

*(e) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)*

**Ducks**

**A. Wisconsin and Minnesota 1837 and 1842 Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

**B. Michigan 1836 and 1842 Treaty Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

**Mergansers**

**A. Wisconsin and Minnesota 1837 and 1842 Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 5 mergansers.

**B. Michigan 1836 and 1842 Treaty Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 5 mergansers, including no more than 1 hooded merganser.

**Geese: Canada Geese**

**A. Wisconsin and Minnesota 1837 and 1842 Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 10 Canada geese, minus the number of blue, snow or white-fronted geese taken.

**B. Michigan, 1836 and 1842 Treaty Zones**

*Season Dates:* Begin September 15 and end December 1, 1997. In addition, the same dates and season length permitted the State of Michigan during the Special September Canada goose Season.

*Daily Bag Limit:* 10 Canada geese, minus the number of blue, snow or white-fronted geese taken. In addition, the same bag limit permitted the State of Michigan during the Special September Canada goose Season.

**Geese: Blue, Snow and White-fronted Geese**

**A. Wisconsin and Minnesota 1837 and 1842 Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 10 geese, minus the number of Canada geese taken.

**B. Michigan 1836 and 1842 Treaty Zones**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 10 geese, minus the number of Canada geese taken.

**Other Migratory Birds: All Ceded Areas**

**A. Coots and Common Moorhens (Common Gallinules)**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 20 coots and common moorhens (common gallinules), singly or in the aggregate.

**B. Sora and Virginia Rails**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 25 sora and Virginia rails singly, or in the aggregate.

**C. Common Snipe**

*Season Dates:* Begin September 15 and end December 1, 1998.

*Daily Bag Limit:* 8 common snipe.

**D. Woodcock**

*Season Dates:* Begin September 8 and end December 1, 1998.

*Daily Bag Limit:* 5 woodcock.

**General Conditions**

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR Part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with applicable State laws. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Minnesota and Michigan—Duck Blinds and Decoys. Tribal members hunting in Michigan and Minnesota will comply with tribal codes that contain provisions that parallel applicable State laws concerning duck blinds and/or decoys.

(f) *Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members Only)*

#### Ducks

*Season Dates:* Open September 15, 1998, close January 31, 1999.

*Daily Bag and Possession Limits:* 7 ducks, including no more than 1 pintail, 2 hen mallards, and 1 canvasback.

#### Geese

*Season Dates:* Open September 1, 1998, close January 31, 1999.

*Daily Bag and Possession Limits:* 4 geese, including 4 dark geese but not more than 3 light geese. The possession limit is twice the daily bag limit.

*General:* Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(g) *Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers)*

#### Band-tailed Pigeons

*Season Dates:* Open September 1, close September 30, 1998.

*Daily Bag and Possession Limits:* 5 and 10 pigeons, respectively.

#### Mourning Doves

*Season Dates:* Open September 1, close September 30, 1998.

*Daily Bag and Possession Limits:* 10 and 20 doves, respectively.

*General Conditions:* Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(h) *Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members)*

#### Ducks

*Season Dates:* Open September 19, close November 25, 1998.

*Daily Bag and Possession Limits:* 6 ducks, including no more than 4 mallards (only 1 of which may be a

hen), 5 wood ducks, 1 canvasback, 1 redhead, 2 pintails, and 1 hooded merganser. Possession limit is twice the daily bag limit.

#### Geese

*Season Dates:* Open September 1, close November 20, open November 30, close December 31, 1998.

*Daily Bag and Limits:* 3 Canada geese, that must be tagged after harvest with tribal tags. The tribe will reissue tags upon registration of the daily bag limit. A season quota of 150 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

#### Woodcock

*Season Dates:* Open September 1, close November 15, 1998.

*Daily Bag and Possession Limits:* 5 and 10 woodcock, respectively.

*General Conditions:* Tribal members and non-tribal members hunting on the Oneida Indian Reservation or on lands under the jurisdiction of the Oneida Nation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20. Tribal hunters are exempt from the requirement to purchase a Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp) and the plugging of shotgun to limit capacity to 3 shells.

(i) *Point No Point Treaty Tribes, Kingston, Washington (Tribal Hunters)*

#### Ducks

*Season Dates:* Open September 15, 1998, close January 15, 1999.

*Daily Bag and Possession Limits:* 7 ducks, including no more than 2 hen mallards, 3 pintails, 1 canvasback and 2 redheads. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

#### Geese

*Season Dates:* Open September 15, 1998, close January 15, 1999.

*Daily Bag and Possession Limits:* 4 geese, and may include no more than 2 brant or 3 light geese. The season on Aleutian and Cackling Canada geese is closed. Possession limit is twice the daily bag limit.

#### Coots

*Season Dates:* Open September 15, 1998, close January 15, 1999.

*Daily Bag Limits:* 25 coots.

#### Mourning Doves

*Season Dates:* Open September 1, close September 30, 1998.

*Daily Bag and Possession Limits:* 10 and 20 doves, respectively.

#### Snipe

*Season Dates:* Open September 1, close January 15, 1999.

*Daily Bag and Possession Limits:* 8 and 16 snipe, respectively.

(j) *Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members)*

#### Ducks

*Season Dates:* Open September 15, 1998, close January 15, 1999.

*Daily Bag and Possession Limits:* 5 ducks, including no more than 1 canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

#### Geese

*Season Dates:* Open September 15, 1998, close January 15, 1999.

*Daily Bag and Possession Limits:* 4 geese, and may include no more than 2 snow geese and 1 dusky Canada goose. The season on Aleutian and Cackling Canada geese is closed. Possession limit is twice the daily bag limit.

#### Brant

*Season Dates:* Open September 15, close December 31, 1998.

*Daily Bag and Possession Limits:* 2 and 4 brant, respectively.

#### Coots

*Season Dates:* Open September 15, 1998, close January 15, 1999.

*Daily Bag Limits:* 25 coots.

#### Snipe

*Season Dates:* Open September 15, 1998, and close January 15, 1999.

*Daily Bag and Possession Limits:* 8 and 16 snipe, respectively.

#### Band-tailed Pigeons

*Season Dates:* Open September 15, close December 1, 1998.

*Daily Bag and Possession Limits:* 2 and 4 pigeons, respectively.

*General Conditions:* All tribal hunters must obtain a Tribal Hunting Tag and Permit from the tribe's Natural Resources Department and must have the permit, along with the member's treaty enrollment card, on his or her person while hunting. Shooting hours are one-half hour before sunrise to one-half hour after sunset and steel shot is required for all migratory bird hunting. Other special regulations are available at the tribal office in Shelton, Washington.

(k) *Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members)*

#### Ducks/Coot

*Season Dates:* Open September 15, 1998, and close February 1, 1999.

*Daily Bag and Possession Limits:* 6 and 12 ducks, respectively; except that bag and possession limits are restricted for blue-winged teal, canvasback, harlequin, pintail, and wood duck to those established for the Pacific Flyway by final Federal frameworks, to be announced.

#### Geese

*Season Dates:* Open September 15, 1998, and close February 1, 1999.

*Daily Bag and Possession Limits:* 6 and 12 geese, respectively; except that the bag limits for brant and cackling and dusky Canada geese are those established for the Pacific Flyway in accordance with final Federal frameworks, to be announced. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

*General Conditions:* All waterfowl hunters, members and non-members, must obtain and possess while hunting a valid hunting permit from the Tulalip tribes. Also, non-tribal members sixteen

years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a validated Federal Migratory Bird Hunting and Conservation Stamp and a validated State of Washington Migratory Waterfowl Stamp. All Tulalip tribal members must have in their possession while hunting, or accompanying another, their valid tribal identification card. All hunters are required to adhere to a number of other special regulations enforced by the tribes and available at the tribal office.

*(1) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Non-tribal Hunters)*

#### Band-tailed Pigeons

*Season Dates:* Open September 1, close September 10, 1998.

*Daily Bag and Possession Limits:* 3 and 6 pigeons, respectively.

#### Mourning Doves

*Season Dates:* Open September 1, close September 10, 1998.

*Daily Bag and Possession Limits:* 8 and 16 doves, respectively.

*General Conditions:* All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking.

Dated: August 26, 1998.

**Donald Barry,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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